

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERIC MARTINEZ FELIX,

Plaintiff,

v.

CITY OF FRESNO, et al.,

Defendants.

No. 1:21-cv-01417-DAD-SKO

ORDER DIRECTING THE CLERK TO
TERMINATE DEFENDANT CITY OF
FRESNO

(Doc. 6)

On December 7, 2021, Plaintiff filed a notice of voluntary dismissal of Defendant City of Fresno, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A). (Doc. 6.)

In relevant part, Rule 41(a)(1)(A) provides as follows:

[A] plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared.

Fed. R. Civ. P. 41(a)(1)(A). “The plaintiff may dismiss some or all of the defendants, or some or all of his claims, through a Rule 41(a)(1) notice,” and the dismissal “automatically terminates the action as to the defendants who are the subjects of the notice.” *Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997). Rule 41(a)(1)(B) provides further that “[u]nless the notice or stipulation states otherwise, the dismissal is without prejudice.” Fed. R. Civ. P. 41(a)(1)(B).

1
2 Plaintiff filed its notice before Defendant City of Fresno served either an answer or a motion
3 for summary judgment. As such, Plaintiff has voluntarily dismissed the City of Fresno without
4 prejudice, and this case has automatically terminated as to that defendant. Fed. R. Civ. P.
5 41(a)(1)(A). Accordingly, the Clerk of the Court is directed to TERMINATE Defendant City of
6 Fresno.

7 This case shall remain OPEN pending resolution of Plaintiff's case against the remaining
8 defendants.

9
10 IT IS SO ORDERED.

11 Dated: **December 10, 2021**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE